

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

ROBERT BARROCA,	)	
	)	
Petitioner,	)	
v.	)	No. 1:09-mc-104-SEB-TAB
	)	
FEDERAL BUREAU OF PRISONS,	)	
et al.,	)	
	)	
Respondents,	)	


**Entry Granting Motion to Dismiss**

Rule 27(a) of the *Federal Rules of Civil Procedure* provides a procedure for perpetuating evidence before any action is commenced. Robert Barroca, a federal inmate confined within this District, invoked Rule 27(a) to obtain a videotape of a shakedown (search) that he alleges occurred on May 5, 2009. The respondent prison authorities seek dismissal of the action because the videotape Barroca describes does not exist, did not exist at the time the action was filed, and did not exist at the time (May 28, 2009) Barroca first contacted prison staff about video recordings from the May 5, 2009, shakedown. Barroca has not refuted the respondents' evidentiary showing of the foregoing. The video tape of the shakedown was automatically overwritten to store newer data. This occurred as an automatic function of the video recording system. Because there is no videotape which can be preserved, and because that was the case from the outset of this action having been filed on July 17, 2009, Barroca's petition (dkt 1) and amended petition (dkt 17) to preserve documentary (video) evidence are **denied** and the respondents' motion to dismiss (dkt 5) is **granted**.

The ruling in this Entry concludes the action. This was not a "civil action" as that term is used in the *Federal Rules of Civil Procedure* and no separate judgment is warranted.

**IT IS SO ORDERED.**

Date: 01/04/2010

  
SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

Distribution:

Robert Barroca  
Terre Haute - FCI  
Inmate Mail/Parcels  
PO Box 33  
Terre Haute, IN 47808

Jill Julian  
United States Attorney's Office  
[jill.julian@usdoj.gov](mailto:jill.julian@usdoj.gov)